

Exhibit 127

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Dey, Inc., et al.,
Civil Action No. 05-11084-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II
In Support of Plaintiffs' Motion For Partial Summary Judgment
and In Opposition To Dey's Motion For Partial Summary Judgment

Gorospe, Kevin J. - December 3, 2008 09:14:00 a.m.

1:1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 -----X
4 IN RE PHARMACEUTICAL INDUSTRY)
5 AVERAGE WHOLESALE PRICE) MDL No. 1456
6 LITIGATION)
7 -----X
8 THIS DOCUMENT RELATES TO) Civil Action:
9 State of California, ex rel.) 01-12258-PBS
10 Ven-A-Care v. Abbott)
11 Laboratories, Inc., et al.)
12 -----X
13 --oOo--
14 WEDNESDAY, DECEMBER 3, 2008
15 --oOo--
16 VIDEOTAPED DEPOSITION OF
17 THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES
18 by J. KEVIN GOROSPE, Pharm.D.
19 --oOo--
20
21 Reported By: CAROL NYGARD DROBNY, CSR No. 4018
22 Registered Merit Reporter

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2:1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
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4 IN RE PHARMACEUTICAL INDUSTRY)
5 AVERAGE WHOLESALE PRICE LITIGATION) MDL No. 1456
6 -----X
7 THIS DOCUMENT RELATES TO) Civil Action:
8 United States of America ex rel.) 01-12257-PBS
9 Ven-a-Care of the Florida Keys,)
10 Inc., et al., v. Abbott)
11 Laboratories, Inc., Civil Action)
12 No. 06-11337-PBS; United States of)
13 America ex rel. Ven-a-Care of the)
14 Florida Keys, Inc., et al., vs.)
15 Dey, Inc., et al., Civil Action No.)
16 05-11084-PBS; United States of)
17 America ex rel. Ven-a-Care of the)
18 Florida Keys, Inc., et al., v.)
19 Boehringer Ingelheim Corp., et al.,)
20 Civil Action No. 07-10248-PBS)
21 -----X
22

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283:1 Manufacturer Price, and then subsequent to that
2 Congress passed some additional legislative
3 language that delayed the implementation of those
4 pieces of the program until October of 2009.

5 So the Department is waiting for all of
6 that to transpire before we can begin work on the
7 AMP-based reimbursement.

8 Q. Okay. Manufacturers -- do
9 manufacturers not report, generally speaking,
10 their AMP data directly to California?

11 A. Manufacturers are only required to
12 report AMP data in relationship to a supplemental
13 rebate agreement.

14 Q. Okay. And for that AMP data -- does --
15 does California recognize any confidentiality
16 restrictions on the use of that AMP data?

17 A. Yes, we do.

18 Q. How so?

19 A. Until such time as the CMS begins
20 publishing the AMP -- AMP data as pursuant to the
21 federal statute, the Department will hold that
22 AMP data as confidential pursuant to federal law.

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284:1 Q. Has the Department always treated AMP
2 data as confidential?

3 A. Yes.

4 Q. For example, I think in earlier
5 testimony today you discussed a period between
6 1994 and May of 1996, I think, when there were --
7 there was a supplemental rebate requirement that
8 all manufacturers pay a supplemental rebate of 10
9 percent of AMP or based upon 10 percent of AMP.

10 During that period to your knowledge
11 did the Department treat the AM -- any AMP
12 information that they may have received during
13 that time as confidential?

14 A. Yes.

15 Q. And did the Department have any
16 position about whether or not that confidential
17 treatment would prevent the Department from using
18 AMP information for purposes of determining
19 reimbursements paid to pharmacies?

20 MR. BUEKER: Objection as to form.

21 THE WITNESS: Yes.

22 BY MR. HENDERSON: